

## THE ELEMENTS OF MORAL PHILOSOPHY

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## CHAPTER 11

# *The Idea of a Social Contract*

The passions that incline men to peace, are fear of death; desire of such things as are necessary to commodious living; and a hope by their industry to obtain them. And reason suggesteth convenient articles of peace, upon which men may be drawn to agreement. These articles, are they, which otherwise are called the Laws of Nature.

THOMAS HOBBES, *LEVIATHAN* (1651)

### 11.1. Hobbes's Argument

From ancient times it has been observed that human beings are social creatures: we are not hermits; we naturally live together in groups, wanting and needing the company of others of our own kind. Some philosophers have thought that this fact is the key to understanding morality. Morality, they say, arises when people are brought to accept the rules that are necessary for social living.

The line of reasoning that leads to this conclusion begins by asking what it would be like if there were no social rules and no commonly accepted mechanism for enforcing them. Imagine, if you will, that there were no such thing as government—no laws, no police, and no courts. In this situation, each of us would be free to do as we pleased; there would be no one to tell us we couldn't do this or that. We might call this *the state of nature*. What would it be like?

Thomas Hobbes, the foremost British philosopher of the seventeenth century, thought it would be dreadful. In the *Leviathan* he wrote that there would be

no place for industry, because the fruit thereof is uncertain: and consequently no culture of the earth; no naviga-

tion, nor use of the commodities that may be imported by sea; no commodious building; no instruments of moving, and removing, such things as require much force; no knowledge of the face of the earth; no account of time; no arts; no letters; no society; and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short.

Why would things be so bad? It is not because people are bad. Rather, it is because of certain basic facts about the conditions of human life. Hobbes appeals to four such facts in arguing that the state of nature would be intolerable:

1. First, there is the fact of *equality of need*. Each of us needs the same basic things in order to survive—food, clothing, shelter. Although we may differ in some of our needs (diabetics need insulin, others don't), we are all essentially very much alike.
2. Second, there is the fact of *scarcity*. We do not live in the Garden of Eden, where milk flows in streams and every tree hangs heavy with fruit. The world is a hard, inhospitable place, where the things we need to survive do not exist in plentiful supply. We have to work hard to produce them, and even then there often is not enough to go around.
3. If there are not enough essential goods to go around, who will get them? Since each of us wants to live, and to live as well as possible, each of us will want as much as we can get. But will we be able to prevail over the others, who also want the scarce goods? Hobbes thinks not, because of the third fact about our condition, the fact of *the essential equality of human power*. No one is so superior to everyone else, in strength and cunning, that he or she can prevail over them indefinitely. Of course, some people are smarter and stronger than others; but even the strongest can be brought down by several others acting in concert.

4. If we cannot prevail by our own strength, what hope do we have? Can we, for example, rely on the charity or good will of other people to help us? We cannot. The fourth and final fact is the fact of *limited altruism*. Even if people are not wholly selfish, they nevertheless care very much about themselves; and you cannot simply assume that whenever your vital interests conflict with their vital interests, they will step aside.

When we put these four facts together, a grim picture emerges. We all need the same basic things, and there aren't enough of them to go around. Therefore, we will be in a kind of competition for them. But no one has what it takes to prevail in this competition, and no one—or almost no one—will be willing to forgo the satisfaction of *his* needs in favor of others. The result, as Hobbes puts it, is a "constant state of war, of one with all." And it is a war no one can hope to win. The reasonable person who wants to survive will try to seize what he needs and prepare to defend it from attack. But others will be doing the same thing. This is why life in the state of nature would be intolerable.

Hobbes did not think this a mere speculation. He pointed out that this is what actually happens when governments collapse, as during a civil insurrection. People begin desperately to hoard food, arm themselves, and lock out their neighbors. (What would *you* do if tomorrow morning you woke up to discover that because of some great catastrophe the government had collapsed, so that there were no functioning laws, police, or courts?) Moreover, the nations of the world, without any meaningful international law, exist in relation to one another very much like individuals in the "state of nature," and they are constantly at one another's throats, armed and distrustful.

Clearly, what is needed to escape the state of nature is some way for people to cooperate with one another. By cooperating, and dividing the labor, the amount of essential goods could be increased and distributed to all who need them. But two things are required for this to happen. First, there must be guarantees that people will not harm one another—people

must be able to work together without fear of attack, theft, or treachery. And second, people must be able to rely on one another to keep their agreements. If one person grows food and another spends his time ministering to the sick while still another builds houses—with each expecting to share in the benefits created by the others—each person in the chain must be able *to count on* the others to perform as expected.

Once these assurances are in place, a society can develop in which everyone is better off than they were in the state of nature. There can then be “commodities imported by the sea, commodious building, arts, letters,” and the like. But—and this is one of Hobbes’s main points—in order for this to happen, government must be established; for it is government, with its system of laws, police, and courts, that *ensures* that people can live with a minimum fear of attack and that people will have to keep their bargains with one another. Government is an indispensable part of the scheme.

To escape the state of nature, then, people must agree to the establishment of rules to govern their relations with one another, and they must agree to the establishment of an agency—the state—with the power necessary to enforce those rules. According to Hobbes, such an agreement actually exists, and that is what makes social living possible. This agreement, to which every citizen is a party, is called *the social contract*.

In addition to explaining the purpose of the state, The Social Contract Theory also explains the nature of morality. The two are closely linked: the state exists to enforce the most important rules necessary for social living, while morality *consists in* the whole set of rules that enhance social living.

Moreover, it is only within the context of the social contract that we can become moral agents, because the contract creates the conditions under which we can *afford* to care about others. In the state of nature, it is every man for himself; it would be foolish for anyone to adopt the policy of “looking out for others,” because one could do so only at the cost of putting one’s own interests in continual jeopardy. But in society, altruism becomes possible. By releasing us from “the continual fear of violent death,” the social contract frees us to take heed of others. Jean Jacques Rousseau

(1712–1778), the French thinker who after Hobbes is most closely identified with this theory, went so far as to say that we become *different kinds of creatures* when we enter civilized relations with others. In his most famous work, *The Social Contract* (1762), Rousseau wrote:

The passage from the state of nature to the civil state produces a very remarkable change in man. . . . Then only, when the voice of duty takes the place of physical impulses and right to appetite, does man, who so far had considered only himself, find that he is forced to act on different principles, and to consult his reason before listening to his inclinations. . . . His faculties are so stimulated and developed, his ideas so extended, his feelings so ennobled, and his whole soul so uplifted, that, did not the abuses of this new condition often degrade him below that which he left, he would be bound to bless continually the happy moment which took him from it forever, and, instead of a stupid and unimaginative animal, made him an intelligent being and a man.

And what does the “voice of duty” require this new man to do? It requires him to set aside his private, self-centered “inclinations” in favor of rules that impartially promote the welfare of everyone alike. But he is able to do this only because others have agreed to do the same thing—that is the essence of the “contract.” Thus we can summarize the social contract conception of morality as follows:

*Morality consists in the set of rules, governing how people are to treat one another, that rational people will agree to accept, for their mutual benefit, on the condition that others follow those rules as well.*

## 11.2. The Prisoner's Dilemma

Hobbes's argument is one way of arriving at The Social Contract Theory. There is another line of thought, however, that has also impressed many philosophers in recent years. This line of thought is connected with a problem in decision theory known as *The Prisoner's Dilemma*. The Prisoner's Dilemma may be stated first in the form of a puzzle; you may want to see if you can solve it before looking at the answer.

Suppose you live in a totalitarian society, and one day, to



your advantage not to do so. This will be the optimum situation.

- (3) If they do not respect your interests, then it would be foolish for you to respect theirs—that would land you in the worst possible situation.
- (4) Therefore, regardless of what other people do, you are better off adopting the policy of not respecting their interests, at least when it would be to your own advantage.

And now we come to the catch: other people, of course, can reason in the same way, and the result will be that we end up back in Hobbes's state of nature, with everyone willing to knife everyone else whenever they see some advantage in it for themselves. *And in this situation each of us is obviously worse off than we would be if we cooperated.* To escape the dilemma, we need another enforceable agreement, this time an agreement to obey the rules of mutually respectful social living. As before, cooperation would not yield the optimum outcome (us being egoists while others are benevolent), but it would lead to a better result than could be obtained by each of us independently pursuing our own interests. We need, in David Gauthier's words, to "bargain our way into morality." We can do that if we can establish sufficient sanctions to ensure that, if we respect other people's interests, they must respect ours as well.

### 11.3. Some Advantages of The Social Contract Theory of Morals

The Social Contract Theory of Morals is, as we have said, the idea that *Morality consists in the set of rules, governing how people are to treat one another, that rational people will agree to accept, for their mutual benefit, on the condition that others follow those rules as well.*

The strength of The Social Contract Theory of Morals (hereafter, for brevity, I will simply say "The Social Contract Theory") is due, in large measure, to the fact that it provides simple and plausible answers to the difficult questions about

morality that have always perplexed philosophers. Let us look at a few of those questions.

1. *What moral rules are we bound to follow, and how are those rules justified?* The key idea is that morally binding rules are the ones that are necessary for social living. It is obvious, for example, that we could not live together very well if we did not accept rules prohibiting murder, assault, theft, lying, breaking promises, and the like. These rules are justified simply by showing that they are necessary if we are to cooperate for our mutual benefit. On the other hand, *some* rules that are often suggested as moral rules—such as the prohibition of prostitution, pornography, and sexual promiscuity—are not obviously justifiable in this way. (How is social living threatened by one person's engaging in voluntary private sexual activity with another? If this conduct does not threaten us in any way, then it is outside the scope of the social contract and is none of our business.) Those rules, therefore, have only a doubtful claim on us.

2. *Why is it reasonable for us to follow the moral rules?* We agree to follow the moral rules because it is to our own advantage to live in a society in which the rules are accepted. Of course, it may sometimes be to our short-term benefit to break the rules. However, it is not reasonable for us to want an arrangement in which people violate the rules any time it is advantageous for them to do so—the whole point of the social contract is that we want to be able to *count on* people to keep the rules, except perhaps in the most dire emergencies. Only then can we feel safe. Therefore, our own steady compliance is the reasonable price we pay in order to secure the steady compliance of others.

3. *Under what circumstances are we allowed to break the rules?* This is a somewhat more complicated matter. The key idea here is the idea of *reciprocity*—we agree to obey the rules on the condition that others obey them as well. Thus when someone violates the condition of reciprocity, he releases us, at least to some extent, from our obligation toward him. Suppose someone refuses to be helpful to you, in circumstances in which he clearly should help you. Then, if later on he needs *your* help, you may rightly feel that you have less of a duty to help him.



The same basic point explains why it is permissible to punish those who have broken the criminal law. Lawbreakers are treated differently from normal citizens—in punishing them, we treat them in ways that are not normally permitted. How can this be justified? The answer has two parts. In the first place, the purpose of the state is to *enforce* the primary rules necessary for social living. If we are to live together without fear, it cannot be left up to the individual's discretion whether he or she will attack others, steal from them, and so forth. Attaching sanctions to the violation of these rules is the only workable means of enforcing them. It follows that we *need* to punish. But why is it *permissible* to punish? The answer is that the criminal has violated the fundamental condition of reciprocity: we recognize the rules of social living as limiting what *we* can do only on the condition that others accept the same restrictions on what *they* can do. Therefore, by violating the rules with respect to us, criminals release us from our obligation toward them and leave themselves open to retaliation.

Finally, there is an even more dramatic circumstance in which one may violate the moral rules. In normal circumstances, morality requires that one be *impartial*, that is, that one give no greater weight to one's own interests than to the interests of others. But suppose you face a situation in which you must choose between your own death and the deaths of five other people. Impartiality, it seems, would require you to choose your own death; after all, there are five of them and only one of you. Are you morally bound to sacrifice yourself?

Philosophers have often felt uneasy about this sort of case; they have felt instinctively that somehow there are limits to what morality can demand of us. Therefore they have traditionally said that such heroic actions are *supererogatory*—that is, they are actions above and beyond the call of duty—admirable when they occur, but not strictly required. Yet it is hard to explain why such actions are not strictly required. If morality demands impartial decisions, and impartial reason decrees it is better for one to die than five, why is one not required to sacrifice oneself?

The Social Contract Theory has an explanation. It is rational to accept the social contract because doing so is to our own advantage; by accepting it, we escape the state of nature.

We give up our unconditional freedom, but in return we get the advantages of social living. However, if we are then required by the contract to give up our lives, we are no better off than we were in the state of nature; and so we no longer have any reason to abide by the contract. Thus there is a natural limit on the amount of self-sacrifice that can be expected from anyone: we may not exact a sacrifice so profound that it negates the very point of the contract. In this way The Social Contract Theory explains a feature of morality that on other theories remains mysterious.

4. *Are there moral "facts"? Does morality have an objective basis? Are moral judgments objectively true?* Philosophers have long wondered whether our moral opinions represent anything more than our subjective feelings or the customs of our society. They have felt that there must be *something* more to morality than customs and feelings, but it is hard to say just what that something is. If there are moral "facts," what kind of thing could they be?

One of the main attractions of The Social Contract Theory is that it sweeps aside all these worries so easily. No long explanation is needed. Morality is not merely a matter of customs or feelings; it has an objective basis. But the theory does not need to postulate any special kinds of "facts" to explain that basis. Morality is the set of rules that rational people would agree to accept for their mutual benefit. We can determine what those rules are by rational investigation and then determine whether a particular act is morally acceptable by seeing whether it conforms to the rules. Once this is understood, the old worries about moral "objectivity" simply vanish.

## 11.4. The Problem of Civil Disobedience

Moral theories should provide help in understanding particular moral issues. The Social Contract Theory is based on an important insight about the nature of society and its institutions, and so it is especially well suited to helping us deal with issues involving those institutions. As a result of the social contract, we have an obligation to obey the law. But are we ever justified in *defying* the law? And if so, when?

The classic modern examples of civil disobedience are,

of course, the actions taken in connection with the Indian independence movement led by Gandhi and the American civil rights movement led by Martin Luther King, Jr. Both movements were characterized by public, conscientious, nonviolent refusal to comply with the law. But the goals of the movements were importantly different. Gandhi and his followers did not recognize the right of the British to govern India; they wanted to replace British rule with an entirely different system. King and his followers, on the other hand, did not question the legitimacy of the basic institutions of American government. They objected only to particular laws and social policies that they regarded as unjust—so unjust, in fact, that extreme measures were advocated as a means of challenging them.

In his *Letter from the Birmingham City Jail* (1963), King detailed the frustration and anger that arises

when you have seen vicious mobs lynch your mothers and fathers at will and drown your sisters and brothers at whim; when you have seen hate-filled policemen curse, kick, brutalize and even kill your black brothers and sisters with impunity; when you see the vast majority of your twenty million Negro brothers smothering in an air-tight cage of poverty in the midst of an affluent society; when you suddenly find your tongue twisted and your speech stammering as you seek to explain to your six-year-old daughter why she can't go to the public amusement park that has just been advertised on television, and see tears welling up in her little eyes when she is told that Funtown is closed to colored children, and see the depressing clouds of inferiority begin to distort her little personality.

The problem was not only that racial segregation, with all its attendant evils, was enforced by social custom; it was a matter of *law* as well, a law that black citizens were denied a voice in formulating. When urged to rely on ordinary democratic processes to redress his grievances, King first pointed out that there had been many attempts at progress by negotiation, but these efforts had met with little success; and as for "democracy," the word had little meaning to Southern blacks: "Throughout the state of Alabama all types of conniving

methods are used to prevent Negroes from becoming registered voters and there are some counties without a single Negro registered to vote despite the fact that the Negro constitutes a majority of the population."

King believed, therefore, that blacks had no choice but to put their case before the public by defying the unjust laws. Today, with King acclaimed as one of the giants of our time, and with the civil rights movement remembered as a great moral crusade, it takes an effort to recall how controversial the strategy of civil disobedience was. Many liberals, while expressing sympathy for the goals of the movement, nevertheless denied that disobeying the law was a legitimate means of pursuing those goals. An article published in the *New York State Bar Journal* in 1965 expressed the typical worries. After assuring his readers that "long before Dr. King was born, I espoused, and still espouse, the cause of civil rights for all people," Louis Waldman, a prominent New York lawyer, argued:

Those who assert rights under the Constitution and the laws made thereunder must abide by that Constitution and the law, if that Constitution is to survive. They cannot pick and choose; they cannot say they will abide by those laws which they think are just and refuse to abide by those laws which they think are unjust. . . .

The country, therefore, cannot accept Dr. King's doctrine that he and his followers will pick and choose, knowing that it is illegal to do so. I say, such doctrine is not only illegal and for that reason alone should be abandoned, but that it is also immoral, destructive of the principles of democratic government, and a danger to the very civil rights Dr. King seeks to promote.

Waldman was surely right to this extent: violating the law, and claiming to be *justified* in doing so, is on its face a bad thing, especially if the legal system is basically decent, because such defiance may very well tend to weaken respect for the values which the law protects. To meet this objection, those who advocate civil disobedience need an argument to show *why* their defiance of the law is justified. One such argument, which King often used, is that the evils being opposed (the evils of racial segregation) are so serious, so numerous, and so

resistant to remedy by less drastic means, that civil disobedience is justified as a "last resort." The end justifies the means, even though the means are somewhat objectionable. This, in the opinion of many moralists, is a perfectly sufficient reply to the point made by Waldman. But there is a more profound reply available, one suggested by The Social Contract Theory.

Why do we have an obligation to obey the law in the first place? According to The Social Contract Theory, it is because each of us participates in a complicated arrangement whereby we gain certain benefits in return for accepting certain burdens. The benefits are the benefits of social living: we escape the state of nature, and live in a society in which we are secure and enjoy basic rights under the law. In order to gain these benefits, we agree that we will do our part to uphold the institutions that make them possible. This means that we must obey the law, pay our taxes, and so forth—these are the burdens we accept in return.

But what if things are arranged so that one group of people within the society is *not* accorded the rights enjoyed by others? What if, instead of protecting them, "hate-filled policemen curse, kick, brutalize and even kill . . . with impunity"? What if they are "smothered in an air-tight cage of poverty" by being denied the opportunity to acquire decent education or decent jobs? If the denial of these rights is sufficiently widespread and sufficiently systematic, we are forced to conclude that *the terms of the social contract are not being honored*. Thus if we continue to demand that the disadvantaged group obey the law and otherwise respect society's institutions, *we are demanding that they accept the burdens imposed by the social arrangement even though they are denied its benefits*.

This line of reasoning suggests that, rather than civil disobedience being an undesirable "last resort" for socially disenfranchised groups, it is in fact the most natural and reasonable means of expressing protest. For when they are denied a fair share of the benefits of social living, the disenfranchised are in effect released from the contract that otherwise would require them to support the arrangements that make those benefits possible. This is the deepest reason that justifies civil disobedience, and it is to the credit of The Social Contract Theory that it exposes this point so clearly.



## 11.5. Difficulties for the Theory

The Social Contract Theory has not had a large number of advocates among philosophers, although recently there have been some signs of change in this regard. Most thinkers have been attracted to other views instead. It is not clear why this should be so; the theory has a number of attractive features, as we have noted, and the arguments against it, although powerful, are no more impressive than the objections that have been directed at other, more popular views. What can be said against the theory? The following two objections seem to have the greatest weight.

1. The most common objection to the theory has been that it is based on a historical fiction. We are asked to imagine that people once lived in isolation from one another; that they found this intolerable; and that they eventually banded together, agreeing to follow social rules of mutual benefit. *But none of this ever happened.* It is just a fantasy. So of what relevance is it? To be sure, if people *had* come together in this way, we could explain their obligations to one another as the theory suggests: they would be obligated to obey the rules because they would have contracted to do so. But even then, there would still be trouble. We would have to face such questions as: Was the agreement unanimous? If not, what of the people who did not sign—are *they* not required to act morally? And if the contract was consummated a long time ago, are we supposed to be bound by the agreements of our ancestors? If not, how is the "contract" renewed in each new generation? But in fact there never was such a contract, and so nothing can sensibly be explained by appealing to it. As one critic of the theory wisecracked, the social contract "isn't worth the paper it's not written on."

To this criticism, the following reply might be offered. First, it might be urged that there is an *implicit* social contract by which we are all bound. To be sure, none of us ever actually signed a "real" contract—there is no document, with signatures affixed. However, there does exist a social arrangement very much like the one described in The Social Contract Theory: there is a set of rules that everyone recognizes as binding on them, and we all benefit from the fact that



these rules are followed. Each of us accepts the benefits conferred by this arrangement; and more than that, we expect and encourage other people to continue observing the rules. This is a description of the actual state of affairs; it is not fictitious. By accepting the benefits of this arrangement, we incur an obligation to do our part in supporting it—in other words, to reciprocate. The contract is “implicit” because we become a part of it not through our words but through our actions.

Thus the story of the “social contract” need not be intended as a description of historical events. Rather, it is a useful analytical tool, based on the idea that we may understand our moral obligations *as if* they had arisen in this way. Consider the following situation. Suppose you were to come upon a group of people playing an elaborate game. It looks like fun, and so you join in. After a while, however, you begin to break some of the rules, because that looks like more fun. The others protest; they say that if you are going to play, you must follow the rules. You reply that you never promised to follow the rules. They may rightly reply that this is irrelevant. Perhaps *nobody* explicitly promised to obey; nevertheless, by joining the game, each person implicitly agrees to abide by the rules that make the game possible. It is *as though* they had all agreed. Morality is like this. The game is social living; we derive enormous benefits from it, and we do not want to forgo those benefits; but in order to play the game and get the benefits, we have to follow the rules.

It isn't clear to what extent the great social contract theorists, such as Hobbes and Rousseau, would accept this way of defending their view. But that doesn't matter; the reply seems to save the theory from what would otherwise be a devastating objection.

2. We have already observed that moral theories should provide help in dealing with practical moral issues. The important theories do this, but all too often a theory that clarifies one issue only confuses another—for each theory, there are some issues on which its pronouncements seem exactly right; but problems are caused when, on other issues, the theory's implications seem unacceptable. When we considered the problem of civil disobedience, The Social Contract Theory seemed to provide considerable insight. But in connec-

tion with some other issues, its implications are more disturbing.

The second objection to The Social Contract Theory, which seems to me more powerful than the first, has to do with its implications for our duties toward beings who are not able to participate in the contract. Nonhuman animals, for example, lack the capacities necessary to enter into any sort of agreements with us, whether explicit or implicit. Therefore it seems impossible that they should be covered by any "rules of mutual benefit" established by such an agreement. Nevertheless, isn't it morally wrong to torture an animal, when there is no good reason for it? And isn't this wrong *because of the pain caused to the animal itself*? But the idea of moral duties with respect to beings who are *outside* the contract seems contrary to the most basic idea behind the theory. Thus the theory seems to be defective.

Hobbes was aware that, on his view, animals are excluded from moral consideration. He wrote that "to make covenants with brute beasts, is impossible." Apparently this did not bother him. The other animals have never been treated well by humans, but in Hobbes's day animals were held in especially low regard. Descartes and Malebranche, two of Hobbes's contemporaries, had popularized the idea that, in addition to lacking souls, animals are not even capable of feeling pain. For Descartes, this was because animal bodies are mere machines; for Malebranche, it was necessary for the theological reason that all suffering is a consequence of Adam's sin, and animals are not descended from Adam. But regardless of the reason, the fashionable view was that because animals cannot suffer, they are necessarily beyond the reach of moral consideration. This enabled seventeenth-century scientists to experiment on animals with perfect indifference to their nonexistent "feelings." Nicholas Fontaine, an eyewitness, described these scientists at work in his memoirs, published in 1738:

They administered beatings to dogs with perfect indifference, and made fun of those who pitied the creatures as if they felt pain. They said the animals were clocks; that the cries they emitted when struck were only the noise of a little spring that had been touched, but that the whole body was without feeling. They nailed poor animals up

on boards by their four paws to vivisect them and see the circulation of the blood which was a great subject of conversation.

If we do have a duty not to cause needless suffering to animals, it is difficult to see how that duty could be accommodated within The Social Contract Theory. However, many people, like Hobbes, might not find this so worrisome, for they might not regard the question of duties to mere animals as particularly urgent. But there is a further difficulty, of a similar kind, which may still give them pause.

Many humans are mentally retarded to such an extent that they cannot participate in the kind of agreements envisioned by The Social Contract Theory. They are certainly capable of suffering, and even of living a kind of rudimentary human life. But they are not sufficiently intelligent to understand the consequences of their actions or to know when they are hurting others, and so we may not rightly hold them responsible for their conduct. These humans pose exactly the same problem for the theory as nonhuman animals. Since they cannot participate in the agreements that, according to the theory, give rise to moral obligations, they are outside the realm of moral consideration. Yet we do think that we have moral obligations toward them. Moreover, our obligations toward them are often based on exactly the same reasons as our obligations toward normal humans—the primary reason we should not torture normal people, for example, is because it causes them terrible pain; and this is exactly the same reason we should not torture mentally retarded people. The Social Contract Theory can explain our duty in the case of normal people but not in the case of retarded people. Unless some way can be found to remedy this difficulty, the verdict must be that the basic idea of the theory is deeply flawed.